

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3594 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ISHWARLAL M RAVAL & OTHERS

Versus

AHMEDABAD MUNICIPAL CORPORATION

Appearance:

MR KS ACHARYA for the Petitioners

MR SM MAZGAONKAR for the Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 04/09/96

ORAL JUDGEMENT

1. Heard learned counsel for the parties. The petitioners have come up with a case that they are serving as B.C.G. Technicians (Vaccinators) in the Ahmedabad Municipal Corporation since about 20 years and they are permanent employees. An industrial dispute has been referred with regard to the wages of employees working in Ahmedabad Municipal Corporation to the arbitrator. The learned Arbitrator Shri I.G. Thakore

gave his award determining the various categories of employees working in Ahmedabad Municipal Corporation and V.S. Hospital run and managed by the Board of Ahmedabad Municipal Corporation and also in the case of M.J. Library. The award was given effect from 1-1-1976. That award has been accepted by the respondent-Corporation. It appears that the petitioners have the grievance regarding the revision of their pay-scale. They made a representation to the Corporation that their pay-scale of the category of Technicians should be revised. Under the letter dated 16th March, 1983, the Municipal Commissioner rejected the representation of the petitioners which gave rise to a cause to them to approach this Court by filing of this Special Civil Application.

2. The petitioners in Para no.20 have stated that their scale as per the Second Pay Commission would be 330-560 and Selection grade be 425-640. It has further been stated that the category of the petitioners has been treated at par with the Sanitary Inspector whereas the respondent has treated the petitioners at par with Sanitary Sub-Inspectors which is an inferior category. The reading of the petition gives out that the petitioner has projected before this Court as if they are serving as B.C.G. Technicians (Vaccinators).

3. The reply to the writ petition has been filed by the respondent Corporation. In the reply, the Corporation has stated that the petitioners were selected as B.C.G. Technicians on 31-8-1962. This cadre had no promotional outlet to the post of Sanitary Inspectors (present pay scale 380-640). In view of this position, the petitioners no.3 and 6 applied for the post of Sanitary Sub-Inspector and they were thereupon selected for the post of Sanitary Sub-Inspector on 21-9-1962. Similarly, the petitioners no.1,2 and 4 were also selected for the appointment as Sanitary Sub-Inspector and posted thereon on 8-6-1963. Shri A.A. Vairati, petitioner no.5 was selected for the post of Sanitary Sub-Inspector on 8-5-1971. All these appointments have been made of the petitioners as Sanitary Sub-Inspectors in pursuance of their applications. The respondent has further stated that though all of them thereafter continued as B.C.G. Technicians, they were offered promotion to the post of Sanitary Inspector (380-640) as and when they became due for such promotion in accordance with their seniority in the list of Sanitary Sub-Inspectors. The petitioners no.1,2,4 and 6 became due for promotion for the first time on 1-2-1981 and petitioner no.5 became due for promotion on 25-7-1983. They were offered promotion to the post of Sanitary

Inspectors as and when they became due for such promotion but they were unwilling to accept the appointment. It has further been stated that even today, the petitioners no.1 to 4 and 6 have again been asked as to whether they are willing to accept the promotion to the post of Sanitary Inspector and their replies are awaited. The respondent has made a categorical statement further that the petitioner no.5 having recently refused the appointment, and as such, he has not been asked again, but if he is willing, he would also be given such appointment even now. Of course, the Corporation has then stated that if the petitioners accept the post of Sanitary Inspectors their grievance of revision of pay-scale of their own post would be automatically redressed as the pay-scale of the promotion post of Sanitary Inspector is 380-640 whereas they have demanded the revision of their pay-scale to Rs.330-560 with Selection grade of Rs.425-640 as per para no.20 of the writ petition. The pay-scale of the post of B.C.G. Technicians and that of Sanitary Sub-Inspector was Rs.290-480. The respondents have given out that the retrospective promotion cannot be given as the petitioners themselves have not accepted the promotion when it was given to them.

4. From the reply it is clear that there was no grievance whatsoever in substance for the petitioners to approach this court. The petitioners have concealed all these facts which were very material and relevant. The petitioners have made an attempt by concealing the facts and by projecting the incorrect picture of the fact to get the pay-scale of the post of Sanitary Inspector though they have offered the post and they have declined. It is a promotional post, and as such, the pay-scale of the lower post should have been less than the pay-scale of it. The pay-scale of the post of B.C.G. Technicians and that of the Sanitary Sub-Inspector is the same. The petitioners have not filed any counter to the reply filed by the respondent. This reply has been filed on 14th September, 1983, but still the petitioners continue with this petition for all these years. The petitioners only demanded the pay-scale of Rs.330-560 whereas they have been offered the promotion on the post of Sanitary Inspector in the pay-scale of Rs.380-640 more than the pay-scale what they demanded. It is a case where the petitioners have not come up with clean hands before this court. They have concealed the material fact as stated earlier that they have been appointed as Sanitary Sub-Inspector and they have been offered the post of Sanitary Inspector, but they themselves have refused. The petitioners have abuse the process of this court.

The petitioners have no grievance whatsoever in the matter, but still they have come up before this court.

5. In the result, this Special Civil Application fails and the same is dismissed. It is a case where the petitioners have abuse the process of court, and as such, they are directed to pay Rs.1000/- each as costs of this petition to the respondent. The respondent Corporation is directed to realise the amount of this cost from the petitioners' salary at the monthly instalment of Rs.200/-. Rule is discharged. Ad-interim relief, if any, granted by this court stands vacated.

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